

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 18, 2002

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald
Clerk: D. E. Moore

D038525 In re Manuel G., a Juvenile

Cause called on merits. Elizabeth Voorhees, Deputy Attorney General argued for appellant. Richard P. Siref, Esq. argued for respondent. Ms. Voorhees replied. Cause submitted.

Court recessed at 9:20 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

D040240 Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Board/Circle K Stores, Inc.

Matter called on merits. Chris Knudsen, Deputy Attorney General argued for petitioner. Ralph B. Saltsman, Esq. argued for respondent. Mr. Knudsen replied. Matter submitted.

Court recessed at 9:40 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald

D038026 Ernst v. General Security Corporation et al.

Cause called on merits. Robert W. Jackson, Esq. argued for appellant. Steven A. Micheli, Esq. argued for respondent. Mr. Jackson replied. Cause submitted.

Court recessed at 9:58 a.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre

D038642 Poway Land, Inc. v. Hillyer & Irwin et al.

Cause called on merits. Manuel R. Ramos, Esq. argued for appellant. Charles A. Bird, Esq. argued for respondent. Mr. Ramos replied. Cause submitted.

Court adjourned at 10:26 a.m.

D037439 People v. Williams

The judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., McConnell, J.

D038462 Coast Regency Homeowners Association v. Balmer

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D039941 People v. Barajas

Upon filing a written abandonment, the appeal is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 18, 2002

D041092 In re the Marriage of Powell

The appeal filed on October 8, 2002, is dismissed for appellant's failure to timely designate the record.

D041111 Del Pozo v. Hutchins

The appeal filed on September 30, 2002, is dismissed for appellant's failure to timely designate the record.

D038819 People v. Vasquez

The sentence is modified to reflect that the prior prison term enhancements are stricken. The trial court is directed to amend the abstract of judgment accordingly and to forward it to the Department of Corrections. In all other respects, the judgment is affirmed. Huffman, Acting P.J.;
We Concur: O'Rourke, J., McConnell, J.

D039762 People v. Forde

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D040785 In re Martin on Habeas Corpus

The petition is denied. We have taken judicial notice of the superior court file SCD154108.

D040943 In re Scott on Habeas Corpus

The petition is denied.

D040855 In re Tolliver on Habeas Corpus

The petition is denied.

D040925 In re Gonzalez on Habeas Corpus

The petition is denied without prejudice.

D041131 Bernal v. Superior Court of San Diego County/People

The petition is denied.

D041172 Vanderwal v. Superior Court of San Diego County/Mercury Finance Company, Inc.

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 19, 2002

D040749 Wanda P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. Kremer, P.J.; We Concur: Benke, J., McDonald, J.

D040106 In re A. S., a Juvenile

The appeal is dismissed. Nares, J.; We Concur: Huffman, Acting P.J., McConnell, J.

D039656 Wasatch Property Management v. Degrate

The judgment is reversed. Respondent to bear costs on appeal. CERTIFIED FOR PUBLICATION. O'Rourke, J.; We Concur: Huffman, Acting P.J., Haller, J.

D038093 Greer v. City of Escondido et al.

D038644

(Consolidated) Judgment affirmed. Defendants to recover costs on appeal. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D037395 People v. McBride et al.

The judgments are affirmed. Nares, J.; We Concur: Kremer, P.J., McConnell, J.

D040486 Palmer v. Superior Court of San Diego County/Sharp Rees-Stealy Medical Group, Inc.

The petition is denied. The parties shall bear their own costs on appeal. CERTIFIED FOR PUBLICATION. Huffman, J.; We Concur: O'Rourke, J., Benke, Acting P.J.

D039823 People v. Porter

Judgment affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D040053 People v. Ganelin

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D038955 People v. Fletcher

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D040675 Luis R., et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petitions are denied. Kremer, P.J.; We Concur: Benke, J., McDonald, J.

D037784 People v. Adkins

The opinion filed November 6, 2002 is ordered certified for publication.

The attorneys of record are:

Allen R. Bloom, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Gary W. Schons, Assistant Attorney General, Barry J.T. Carlton and Gary W. Brozio, Deputy Attorneys General, for Plaintiff and Respondent.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 19, 2002 (Continued)

D040382 In re Donald J., a Juvenile

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D040944 In Re Scott on Habeas Corpus

The petition is denied.

D039327 People v. Childers

The judgment is affirmed as modified. The trial court shall amend the abstract of judgment and advise the Department of Corrections of the modification. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D038716 People v. Simmons

We reverse Simmons's conviction of petty theft (Pen. Code, sec. 484). In all other respects, the judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., Nares, J.

D038909 People v. Driggers

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., Nares, J.

D040199 In re Jacob G., a Juvenile

The orders are affirmed. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D037737 People v. Cottingham

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 20, 2002

D038680 Smith et al. v. Caldwell

The order is affirmed. David is awarded costs on appeal. McConnell, J.;
We Concur: Huffman, Acting P.J., O'Rourke, J.

D039385 People v. Washington, Jr.

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D038922 People v. Carroll

The judgment is affirmed as modified with directions. The trial court shall amend the abstract of judgment as modified and advise the Department of Corrections of the modifications. Kremer, P.J.;
We Concur: Huffman, J., O'Rourke, J.

D040241 In re Fawn P., a Juvenile

The order terminating parental rights and selecting adoption as the permanent plan for Fawn is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D039498 In re Raymond R., a Juvenile

Judgment affirmed. Huffman, Acting P.J.; We Concur: Nares, J., McIntyre, J.

D038402 Abrams et al. v. City of San Diego/Mesa Shopping Center East

The petition for rehearing is denied.

D040362 In re Gerardo C., a Juvenile

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., McConnell, J.

D041062 Diane S. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Diane S. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

D041070 Betty E. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Betty E. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

D041073 Marie E. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Marie E. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 20, 2002 (Continued)

D040977 McKee v. Superior Court of San Diego County/Metabolife International, Inc., et al.
The petition is denied.

**D040979 Espinoza v. Superior Court of San Diego County/Metabolife
International, Inc., et al.**
The petition is denied.

D041159 El Cajon Luxury Cars, Inc. v. Superior Court of San Diego County/Reid et al.
At the request of petitioner, the petition for writ of mandate is dismissed.

D040985 In re Mayfield on Habeas Corpus
The petition is denied.

D040856 In re Dunn on Habeas Corpus
The petition is denied.

D041006 In re Martinez on Habeas Corpus
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 21, 2002

D039933 Orlando S., a Minor v. Superior Court of San Diego County/People

Let a writ issue directing the trial court to vacate its order denying the motion, and to enter a new and different order granting the motion as to Officers Szakara and Makis to the extent delineated in our opinion above, and denying the motion as to Officer Iammarino. Our temporary stay of the proceedings is vacated. Each party to bear its own costs in this writ proceeding. Haller, J.;
We Concur: Huffman, Acting P.J., McDonald, J.

D039717 People v. Paonessa

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D038870 People v. McCastle

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D038219 People v. Smann

The judgment is reversed. O'Rourke, J.; We Concur: McDonald, Acting P.J., McConnell, J.

D038646 Dellinger v. San Diego City Employees' Retirement System

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., McConnell, J.

D041004 In re Solis on Habeas Corpus

The petition is denied.

D040931 In re Frederick on Habeas Corpus

The petition is denied.

D039714 People v. Patel

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer P.J., Huffman, J.,

D039990 Trumble v. Superior Court of San Diego County/People

The petition is denied. CERTIFIED FOR PUBLICATION. McDonald, J.;
We Concur: Huffman, Acting P.J., McConnell, J.

D039989 Whatley v. Superior Court of San Diego County/People

The petition is denied. McDonald, J.; We Concur: Huffman, Acting P.J., McConnell, J.

D038483 Morris et al. v. Spangler et al.

The appeal is dismissed. The parties shall bear their own costs. McDonald, J.;
We Concur: Huffman, Acting P.J., McConnell, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 21, 2002 (Continued)

D037739 People v. White

The judgment of conviction is modified to strike the imposition of the parole revocation fine and the prior prison enhancement and, as so modified, the judgment is affirmed. The matter is remanded with directions to the clerk of the superior court to prepare and deliver to the Department of Corrections an amended abstract of judgment in accordance herewith. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D041160 In re Jessica S., a Juvenile

Grandparents without defacto parent status do not have standing to appeal. Review should be sought by petition for writ relief. The appeal is dismissed.

D038642 Poway Land, Inc. v. Hillyer & Irwin et al.

The judgment is affirmed. Kremer, P.J.; We Concur: Nares, J., McIntyre, J.

D040267 People v. Rivera

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

D040745 Sutton Tree Service, Inc. v. State Compensation Insurance Fund et al.

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 22, 2002

D037856 Mercury Books, Inc. v. G&B Emporia, Inc., et al.

The petition for rehearing is denied.

D039186 People v. Smith

The judgment is affirmed. Kremer, P.J.; We Concur: Nares, J., McConnell, J.

D041179 In re Alyssa F., a Juvenile

Since mother, Christina R., father, Pedro F., and grandmother, Barbara V., are appealing from the same hearing, the appeals will be consolidated under Court of Appeal docket number D041179.

As the grandmother, Barbara V., does not have standing to appeal, the notice of appeal filed November 12, 2002 is dismissed.

Juvenile fast track rule time as to Christina R.'s and Pedro F.'s appeal will run from the date of this order.

D040383 In re Gabriella S., et al., Juveniles

The orders are affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McConnell, J.

D039113 Morris et al. v. Edmonds et al.

The judgment is affirmed. The petition is denied and the temporary stay is removed. The matter is remanded to the superior court to determine the amount of attorney fees on appeal recoverable by respondents. McDonald, J.; We Concur: Huffman, Acting P.J., McConnell, J.

D039115 People v. Slovik

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

D037932 Gerard v. Qualcomm Incorporated

The petition for rehearing is denied.

D040932 In re Douglas on Habeas Corpus

The petition is denied.

D041192 Gomez v. Superior Court of San Diego County/People

The petition is denied.

D040947 In re Marino on Habeas Corpus

The petition is denied.

D040987 In re Self on Habeas Corpus

The petition is denied.

D041055 In re Marsh on Habeas Corpus

The petition is denied without prejudice to refile in the superior court.